

ROSENDO GONZALEZ (State Bar No. 137352)  
CHAPTER 7 TRUSTEE  
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**NOT FOR PUBLICATION CHANGES MADE BY COURT**

**UNITED STATES BANKRUPTCY COURT**

**CENTRAL DISTRICT OF CALIFORNIA**

**LOS ANGELES DIVISION**

In re	)	BK No. 2:16-bk-12723-RK
	)	[Chapter 7]
PETER W. BARTHELMMESS and	)	
KIM E. BARTHELMMESS,	)	
	)	ORDER SUSTAINING TRUSTEE'S
Debtors.	)	OBJECTION TO MUSTAPHA SANUSI'S
	)	GENERAL UNSECURED CLAIM
	)	[OFFICIAL CLAIM NO. 15] AS
	)	UNTIMELY, OR IN THE
	)	ALTERNATIVE, ALLOWED
	)	SUBORDINATE TO FILED,
	)	ALLOWED CLAIMS [OFFICIAL DOCKET
	)	NO. 72]
	)	
	)	
	)	DATE: December 5, 2017
	)	TIME: 2:30 p.m.
	)	PLACE: Courtroom "1675"

The objection of Rosendo Gonzalez, the Chapter 7 trustee in this bankruptcy case (the "Trustee"), to Mustapha Sanusi's general unsecured claim ("Sanusi's Claim") [Official Claim No. 15] as untimely, or in the alternative, allow as subordinate to filed, allowed claims (the "Trustee's Claim Objection") [Official Docket No. 72], came regularly for a hearing before

1 the Honorable Robert N. Kwan, United States Bankruptcy Judge  
2 presiding. Rosendo Gonzalez appeared as the Chapter 7 trustee  
3 in this case. All other appearances were made on the record.  
4 Based on the evidence presented and good cause appearing  
5 therefor, for the reasons by the court at the hearing and in its  
6 tentative ruling issued for the matter (copy of tentative ruling  
7 is attached hereto), it is hereby  
8

9 ORDERED:

- 10 1. The Trustee's Claim Objection is sustained.  
11 2. Sanusi's Claim is allowed as an untimely filed,  
12 general unsecured claim, subordinate to all other timely filed and  
13 allowed claims, pursuant to Section 726(a)(3) of the Bankruptcy  
14 Code.  
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23 Date: December 11, 2017  
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Robert Kwan  
United States Bankruptcy Judge

ATTACHMENT - TENTATIVE RULING

Grant trustee's motion objecting to claim of creditor Mustapha Sanusi for the reasons stated in the moving papers and for lack of timely written opposition and treat claim as allowed, tardily filed, but subordinated unsecured claim under 11 U.S.C. 726(a)(3). Based on trustee's uncontroverted declaration that the notice of the bar date of 8/29/16 was given on 5/25/16 pursuant to FRBP 3002(c)(5), that the creditor's proof of claim filed on 9/6/16 was untimely, and that the notice filed on 8/31/16 stating that the claims bar date was 12/5/16 was erroneous and that such erroneous notice of bar date was rescinded by a corrected notice filed on 9/2/16. Also, creditor's written opposition to the motion was filed on 12/3/17, which was past the deadline for filing opposition on 11/21/17 after the motion being served on 10/26/17, and creditor's failure to timely file and serve his opposition to the motion may be deemed to be consent to granting of the motion pursuant to LBR 9013-1(h). Appearances are required on 12/5/17, but counsel may appear by telephone.

END OF TENTATIVE RULING